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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Rulemaking For Purposes Of Revising
General Order 96-A Regarding
Informal Filings At The Commission.

Rulemaking 98-07-038
(Filed July 23, 1998)

**JOINT OPENING COMMENTS OF VERIZON CALIFORNIA INC. (U 1002 C)
AND AT&T CALIFORNIA (U 1001 C) ON PROPOSED
FOURTH INTERIM DECISION ADOPTING REMAINING
GENERAL RULES AND INDUSTRY RULES FOR
ENERGY AND WATER AS REVISIONS TO GENERAL ORDER 96-A**

While the Fourth Interim Decision (the “PD” or “Proposed Decision”) appears to exclusively address the energy and water industries, the General Rules could be interpreted to apply to the Telecommunications Industry. Section 1.1 begins by stating that the General Order contains rules for the Energy and Water Industries and that Telecommunications Industry rules may be added later. But then it states that the “General Rules govern all informal matters . . . submitted to the Commission by public utilities that are . . . telephone . . . corporations . . .” Thus it is not clear how the Commission intends to make the General Rules applicable to the Telecommunications Industry. If the General Rules are meant to apply to the Telecommunications Industry, then Verizon and AT&T California have the following concerns.

I. THE TIER SYSTEM SHOULD NOT APPLY TO TELECOMMUNICATIONS COMPANIES UNTIL SUCH TIME AS THE COMMISSION ISSUES TELECOMMUNICATIONS INDUSTRY RULES.¹

The PD adopts three tiers applicable to the filing and approval of advice letters. Tier 1 advice letters are those that are “effective pending disposition.” Tier 2 advice letters are deemed approved after the initial review period (30 days) has passed, unless suspended. Tier 3 advice letters require a Commission resolution for approval. The PD provides that Industry Rules will specify the types of advice letters that can be filed under each Tier.² Because the Commission has postponed adopting Industry Rules for the Telecommunications Industry, the Tier system would appear to be inapplicable to that industry until such time as they are adopted.

If the latter conclusion is correct, then the General Rules create confusion by using terminology applicable to Tiers. For example, Rule 7.5.3 addresses advice letters “effective pending disposition.” If the General Rules are applicable to the Telecommunications Industry, then Section 7.5.3 makes no sense as to that industry because there are no Industry Rules specifying which advice letters can be filed “effective pending disposition.” Indeed, many of the rules of the General Rules are formulated around the Tier system and they too make little sense as to the Telecommunications Industry. To avoid such confusion and

¹ AT&T California believes Rule 7.3.1 is applicable to services granted freedoms in D.06-08-030 and Rule 7.6.1 is applicable for all other advice letters. AT&T California emphasizes that the adoption of rules predicated on the existence of specific industry rules not in existence for telecommunications corporations can be a cause for confusion.

² See Rule 1.1, second paragraph (“for purposes of advice letter review, the Industry Rules will contain three tiers that will distinguish, for the respective Industry Divisions, between those kinds of advice letters subject to disposition under General Rule 7.6.1 (Industry Division disposition) and those subject to disposition under General Rule 7.6.2 (disposition by resolution).”).

potential chaos in the filing of advice letters between the time the General Rules are adopted and the Telecommunications Industry rules are adopted, the Commission should either order that the General Rules are not applicable to the Telecommunications Industry or that they are held in abeyance as to that industry.³

II. THE COMMISSION SHOULD COORDINATE THE FORMULATION OF GENERAL RULES WITH PHASE II OF URF.

Rule 8.4 of the General Rules adopts new tariff sheet formatting requirements.⁴ Beyond the merits of these requirements lies the overarching concern that in URF Phase II the Commission is considering several issues regarding the tariff and advice letter process, including:

- “Clarifying the relationship between one-day-effective advice letters and the notice and protest requirements of General Order 96-A”; and
- “Detariffing of telephone service other than basic exchange service.”⁵

³ The Commission should nevertheless reiterate that GO 96-A, as amended by the First (D.01-07-026), Second (D.02-01-038) and Third (D.05-01-032) Interim Orders continues to apply to the Telecommunications Industry.

⁴ Verizon follows these requirements, with two exceptions. Rule 8.4 requires the utility to include a “CIS” number on the left side of each tariff sheet. Neither Verizon nor AT&T California include that number on its sheets. AT&T California suggests that instead this information be included in a cover sheet for each schedule in a utility’s tariff. Rule 8.4 also requires in the footer of the tariff that the date filed and the effective date of the advice letter to be completed by the Industry Division. Currently, Verizon and AT&T California complete those fields. The filing date is in the control of the utility filing a tariff change so it is appropriate for the utility to complete the filing date. The effective date, also inserted by the utility, is the date approved by the Commission. Verizon and AT&T California believe it would be impracticable for the Industry Division to complete these dates and sees no reason to change the current process.

⁵ See Order Instituting Rulemaking on the Commission's Own Motion to Assess and Revise the Regulation of Telecommunications Utilities, Rulemaking 05-04-005, December 21, 2006 Assigned Commissioner’s Ruling and Scoping Memo at 3.

It would be unnecessarily burdensome to order compliance with the PD's new requirements if the Commission soon after decides to detariff most retail telecommunications services or otherwise modifies the tariff process to accommodate URF's expedited 1-day advice letter process. The Commission should therefore coordinate its tariffing requirements in this docket with the URF docket.

III. THE COMMISSION SHOULD EXEMPT CERTAIN TELECOMMUNICATIONS INDUSTRY FILINGS FROM THE CONFIDENTIALITY PROVISIONS OF RULE 9

Rule 9 requires a utility to request confidential treatment of information it claims is confidential. While there might be advice letters that include confidential information of a type the Commission has not previously considered, many advice letters filed by the Telecommunications Industry routinely contain information that the Commission has ruled is confidential. For example, Telecommunications carriers routinely and often file contracts with the identities of the other contracting party redacted. The Commission authorized that practice in D. 94-09-065 (at p. 240 (mimeo)). Having to file a request each time customers request confidentiality would be burdensome (given the specific showing required in Section 9.3⁶).

The Commission is also sensitive to competitive issues in the Telecommunications Industry. Thus, the Commission has traditionally allowed carriers to file cost support documentation under seal. See, e.g., Resolution T-16572 (recognizing Verizon's cost support as confidential). While URF has

⁶ Section 9.3 lists eight items that must be included in each request for confidentiality. See Proposed Decision, Appendix A at 29.

eliminated the cost support requirement in most cases, for special access services (the pricing and tariffing rules for which are being reviewed in URF phase 2), cost support may still be required “upon request.” Having to file a request each time Verizon or AT&T California file confidential cost support would be unnecessarily burdensome (given the specific showing required in Section 9.3) because the Commission recognizes that the information is proprietary and if made public could harm competition.

In the text, the Proposed Decision notes a number of decisions regarding confidentiality issues for Energy companies. Additionally, the Commission has initiated a new phase to R.05-06-040 to address confidentiality issues for all utilities. At this point, the Commission should move Section 9 into the energy industry rules, exempt the telecommunications carriers from the provisions of Section 9, or provide in Section 9 that it does not apply when carriers seek to maintain the identities of contracting parties confidential or file confidential cost support.

IV. EMERGENCY SERVICE TO GOVERNMENT AGENCIES SHOULD NOT REQUIRE A RESOLUTION.

Rule 8.2.3 proposes that telecommunications corporations file an advice letter when providing free or reduced rates for services to government agencies when emergency conditions exist. The rule also provides that such an advice letter be subject to disposition under General Rule 7.6.2., requiring a Commission resolution. Verizon and AT&T California suggest that such advice letters be subject to General Rule 7.6.1., requiring only Industry Division disposition. The rare but obviously necessary circumstances justifying such free

or reduced rates should not need formal Commission resolution. The Commission has permitted AT&T California to provide such benefits to customers in previous emergencies and only required notice to the Telecommunications Division about those plans. The Industry Division should be able to conduct any necessary review of the existence of such emergency conditions.

Dated: January 9, 2007

On Behalf of Verizon California Inc. and
AT&T California, Inc.

Respectfully submitted,

/s/ Jesús G. Román

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CERTIFICATE OF SERVICE

I hereby certify that: I am over the age of eighteen years and not a party to the within entitled action; my business address is 112 Lakeview Canyon Road, CA501LB, Thousand Oaks, California 91362; I have this day served a copy of the foregoing, **Joint Opening Comments of Verizon California Inc. (U 1002 C) And AT&T California (U 1001 C) On Proposed Fourth Interim Decision Adopting Remaining General Rules And Industry Rules For Energy And Water As Revisions To General Order 96-A** by electronic mail to those who have provided an e-mail address and by U.S. Mail to those who have not, on the service list.

I declare under penalty of perjury that the foregoing is true and correct.
Executed this 9th day of January, 2007 at Thousand Oaks, California.

/s/ *Jacque Lopez*

Jacque Lopez

CALIFORNIA PUBLIC UTILITIES COMMISSION

Service Lists

Proceeding: R9807038 - PUC-GENERAL ORDER 96

Filer: OIR - GENERAL ORDER 96-A

List Name: LIST

Last changed: January 3, 2007

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